

# The Enforcement of Sunday Observance in Post-Revolution Scotland 1689-1733

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To many Victorian historians and theologians the period between the Revolution Settlement of 1689 and the Secession of 1733 represented the spiritual high-water mark of Scottish Sabbath observance. With twinges of nostalgia and envy, they referred to this period as the "Golden Age" of Sabbatarianism. Sessional discipline, they maintained, was in its pristine vigour and respect for the Sabbath was virtually universal.<sup>1</sup> Other writers who did not happen to share this enthusiasm for Sabbatarianism still agreed in principle; i.e., that post-Revolution Scotland was characterized by a strictly-enforced and stringently-observed Sabbath. Historians such as Henry Grey Graham, Henry Buckle, and William Lecky (to name only a few), have painted grim pictures of Scottish Sunday observance in their social histories. Lecky said, "Every element of brightness and gaiety on that day was banished, every form of intellectual and aesthetic culture was rigidly proscribed."<sup>2</sup> Buckle contended that there was more freedom in the Spanish Inquisition than in Scottish Kirk Sessions, while Graham, in his popular and influential *The Social Life of Scotland in the Eighteenth Century*, portrayed Sunday as a day of extreme gloom, restraint, and oppression.<sup>3</sup> Even competent modern historians have not questioned these generalizations now sacrosanct by virtue of constant repetition.<sup>4</sup>

Unquestionably contemporary records lend themselves to just such interpretations. They show that churches employed the strong arm of civil magistrates to protect the sanctity of the Sabbath. Elders patrolled

<sup>1</sup> cf. J. P. Lilley, *The Lord's Day and the Lord's Servants* (Edinburgh, 1891), 182-3; and James Gilfillan, *The Sabbath Viewed in the Light of Reason, Revelation, and History* (2nd ed., Edinburgh, 1862), 157-72.

<sup>2</sup> William Lecky, *A History of England in the Eighteenth Century* (London, 1901), II, 334-5.

<sup>3</sup> Henry Buckle, *History of Civilisation in England* (London, 1861), II, 344; Henry Grey Graham, *The Social Life of Scotland in the Eighteenth Century* (2nd ed., London, 1901), 314-21. Graham's book first appeared in two Vols. (1899) and was reprinted with minor alterations the following year. The 2nd ed. (1901) was reissued in 1908 and 1928 because of popular demand.

<sup>4</sup> For example, Gerald Cragg, *The Church and the Age of Reason* (Penguin Books, 1960), 84.

the streets during church hours so that any "vaigers" could be detected and arrested. They even sought out delinquents in the privacy of their own homes. Moreover, the Church officially condemned all forms of Sunday labour and frowned upon any non-religious recreation or relaxation. Not even during Covenanter ascendancy in the seventeenth century had there been such a concentrated effort to "keep the Sabbath holy".

Even so, a more balanced evaluation of post-Revolution Sunday observance is badly needed. The sweeping generalizations of nineteenth-century historians have passed unchallenged long enough. In particular, the views of Henry Grey Graham, copied and re-copied by countless parish historians, require the modification of a twentieth-century perspective. Like most of his contemporaries, Graham was too involved in a polemic (conscious or unconscious) against the Victorian Sabbath to be a fair judge of the eighteenth-century sources which he examined. Holding a mirror to his own time, he saw a religious unity and social conformity which simply did not exist in early eighteenth-century Scotland. Graham's caustic comments on the severity of the Scottish Sabbath probably reflect an assessment of his own day and age more than of the century about which he was writing.

Furthermore, Graham's use of sources is open to question. From a careful study of his footnotes, it is evident that he employed only printed extracts of Kirk Session records in his research. While no one doubts the value of such records, it must be admitted that it is dangerous to draw too many general conclusions from them. To cite an action of a Kirk Session or Presbytery without knowing its effectiveness or consistency can at times be misleading to say the least. Isolated quotations tend to prove exactly what the writer wants to stress. Only when taken in a wider context do they yield a closer approximation to actual conditions. A careful examination of post-Revolution ecclesiastical and civil records forces one to conclude that despite Graham's copious footnotes and diligent research, his evidence, at least on this point, is insufficient to support such extreme statements about the harshness and rigidity of Scottish Sunday observance.<sup>1</sup>

<sup>1</sup> Graham's anti-Sabbatarian bias has at times dulled his historical acumen. For example, in his effort to paint a grim picture of Sabbath observance in Glasgow, he affirmed that the compurgatory system of searching the streets was a "tyrannical practice" which "continued till 1780". (p. 157fn) His source of information for this date is given as the *New Statistical Account*, VI, 231. This reference, however, states only that the practice continued "until about the middle of the century". Obviously Graham secured his information about the 1780 elsewhere. Most likely he found it in John Strang, *Glasgow and Its Clubs* (London, 1856), (p. 110fn), and mistakenly put down the *New Statistical Account* as the source of his information. However, strictly speaking, both sources are inaccurate. The original papers of the case which brought the system to an end can be found in the Unextracted Processes of the Court of Session (Adams-Dal, B/4/64) located in the Scottish Record Office, Edinburgh. The actual date is 9th June 1765.

## CIVIL ENFORCEMENT

Certainly civil enforcement of Sunday observance had only limited success. The Scottish Parliament approved stringent Sabbath laws in 1691, 1693, 1695, 1701, and 1705, usually under the general heading of "Profaneness". The laws condemned various secular activities and set forth precedures for punishing offenders. The very repetition of these laws, however, is an indication that previous ones were not being obeyed. There was obviously no need to repeat and confirm a law that was already being successfully enforced. Often the laws lamented that previous legislation "had not taken the wished effect, through the negligence of the magistrates, officers, and others concerned to put the same into execution."<sup>1</sup> Even making full allowances for usual Sabbatarian hyperbole, the preamble with which most laws begin, "Notwithstanding the former laws, the crime has increased", substantiates this interpretation.<sup>2</sup> Moreover, legal authorities have found only one actual prosecution in higher courts between 1689 and 1733 in which Sunday observance was a factor. In the highly complicated case of Captain Moodie who forced a ferryman to cross the Pentland Firth one Sunday afternoon in 1712, the court could reach no decision.<sup>3</sup> Hence it is fair to say that these statutes of the Scottish Parliament reflected Sabbatarian aspirations more than they did achievements.

It was also the duty of Justices of the Peace to enforce enactments against cursing, swearing, and Sabbath profanation. For such tasks the Justices do not appear to have displayed much enthusiasm. A few representative examples must suffice. In 1709 the Kirk Session of Auchtermuchty requested a local Justice Court to compel Sabbath-breakers to submit to sessional discipline but had no success.<sup>4</sup> In 1711 the Presbytery of Deer implored Justices "to oblige certain persons to compear before the Session" but there is no indication that the request was ever heeded.<sup>5</sup> Published records of the Justices of the Peace for Lanarkshire (1707-1723) reveal that not one case of Sabbath-breaking was ever taken into consideration. Laws against Sabbath

<sup>1</sup> *The King's Pious Proclamations for Encouragement of Piety and Vertue* (Edinburgh, 1727), 47.

<sup>2</sup> *ibid.*, 52-5. For a complete abstract of these laws see R. Douglas Brackenridge, "Sunday Observance in Scotland 1689-1900" (Unpublished Ph. D. Thesis, University of Glasgow, 1962), 250-52.

<sup>3</sup> James Dobie, *Remarks on the Law of Scotland Relative to the Observance of the Sabbath* (Glasgow, 1833), 9-10; and David Hume, *Commentaries on the Law of Scotland Respecting Crimes* (2nd ed., Edinburgh, 1819), I, 563-4.

<sup>4</sup> Auchtermuchty Kirk Session Records, 10th July 1709.

<sup>5</sup> Records of the Presbytery of Deer, 12th February 1711. In 1721 the Presbytery of Brechin reported: "We have no Justices of Peace or other Judges in this corner because of the Disaffection of the Gentry." Records of Brechin Presbytery, 3rd May 1721.



profanation were dutifully read in village squares but no offenders were ever brought to justice.<sup>1</sup> Although an occasional prosecution does occur in other records, it is doubtful whether, taken as a whole, Justices of the Peace greatly aided the Sabbatarian cause.

The Baron's Court was another means by which Sabbatarian legislation could be enforced. Much of the Court's business consisted in proceedings against the Lord's vassals and tenants. If the Baron happened to be religiously inclined, people under his care would certainly feel the weight of his authority in maintaining outward decorum and peace on Sunday. At the Barony Court of Stitchell, for example, two men were found guilty in 1697 of "a Ryott and profanation of the Sabbath day" and were fined "Fyfty pounds Scots money".<sup>2</sup> John Clerk, Baron of Penicuik, ordered his officers to go at intervals through "the heill houses of Loanhead in tyme of public worship and mark who are at home and what is their carriage".<sup>3</sup> Sunday trading at Gleneagles in Perthshire came to a sudden halt when Baron Mungo Haldane dispersed local merchants at sword point.<sup>4</sup> Although these courts played only a minor role in Scottish legal history, they could be effective in enforcing Sabbath observance in limited areas if local Barons were co-operative.

On paper at least, Town Councils appeared ready to support the Kirk's attempts to regulate Sunday activities. The Edinburgh Town Council passed Sabbatarian legislation in 1695, 1699, 1701, and 1709. In each instance it threatened rigorous execution of the Acts.<sup>5</sup> In other towns and cities such as Glasgow, Peebles, Stirling, Lanark, and Elgin, to name only a few, similar enactments grace the pages of their statute books.<sup>6</sup> Kirk Sessions frequently obliged local magistrates to attend their meetings and to inflict civil penalties on guilty parties. The Elgin Kirk Session ruled in 1698 "that it is thought

<sup>1</sup> Charles Malcolm (ed.), *The Minutes of the Justices of the Peace for Lanarkshire* (Edinburgh, 1931), liv-lv. The same was true for the Midlothian Justices. See 83-85.

<sup>2</sup> George Gunn (ed.), *Records of the Baron Court of Stitchell* (Edinburgh, 1905), 125. See also 21 and 33.

<sup>3</sup> John Gray (ed.), *Memoirs of the Life of Sir John Clerk of Penicuik* (Edinburgh 1892), 241-2.

<sup>4</sup> Alexander Haldane, *The Lives of Robert Haldane of Airthrey and of His Brother James Alexander Haldane* (7th ed., Edinburgh, 1840), 6.

<sup>5</sup> A detailed account of these acts is given in Robert Chambers, *Domestic Annals* (Edinburgh and London, 1861), 344-5.

<sup>6</sup> Examples of Sabbatarian legislation in the above-mentioned localities can be found in the following sources: Robert Renwick (ed.), *Extracts from the Records of the Burgh of Glasgow 1691-1718* (Glasgow, 1908), IV, 164, 337, and 442; James Buchan (ed.), *A History of Peeblesshire* (Glasgow, 1925), II, 174; Robert Renwick (ed.), *Extracts from the Records of Stirling 1667-1752* (Glasgow, 1889), 117; *Extracts from the Records of the Royal Burgh of Lanark* (Glasgow, 1893), 247-8, 265-6; and William Cramond, *Extracts from the Records of the Kirk Session of Elgin* (Elgin, 1897), 312, 316, 328, and 332.

fit that the minister go to the Town Council the next time they shall sit after this and require some of the Magistrates to sit in session always with us".<sup>1</sup> In most areas constables or baillies patrolled the streets and arrested anyone guilty of breaking the Sabbath peace. A reward for each offender brought to justice provided added incentive to these civil Sabbath guardians.<sup>2</sup>

Nevertheless, the ability and desire of local magistrates to suppress Sabbath-breaking has been greatly exaggerated. Their threats were not feared nor their wishes followed to any significant extent. Edinburgh can be taken as a good example. In 1693 the Town Council passed an *Act Against Profaneness* which forbade all persons within the city and suburbs "to brew, or to work any other handiwork, on the Lord's Day, or to be found on the streets, standing or idly walking, or to go in company or vague on the Castle-hill, public yards, or fields."<sup>3</sup> With minor variations this *Act* was repeated in 1699 and 1701 with the usual indications that magistrates had not yet been able to enforce it to any significant extent. In 1705 the General Assembly lamented "the great profanation of the Lord's Day, by multitudes of people vaging idly upon the streets of the city of Edinburgh, pier and shore of Leith, in St Ann's Yeads, and the Queen's Park, and in diverse places of the West Kirk Paroch, and on the Links of Leith and other places especially about Edinburgh."<sup>4</sup>

In spite of all these efforts, people continued to ignore the threats of magistrates and clergy. In 1724 the General Session of Edinburgh reported very pessimistically about the situation.

"It was represented to this meeting by several of the reverend ministers and other members, that immorality was grown to a very great height, particularly the profanation of the Lord's day, by people crowding upon the streets to the Castle-Hill, the Grayfriars church-yard, the High-school yard, and other places in time of Divine service, as well as other times in the day; which being considered by this meeting, they named the following members, viz., the Rev. William Mitchell, & c. as a committee to wait upon the honourable

<sup>1</sup> Cramond, *Extracts from the Records of the Kirk Session of Elgin*, 316. In 1710 the Greyfriars Kirk Session rebuked a woman guilty of selling drink during the "tyme of sermon" and referred her "to the magistrat who being present took her into custodie whill she payed a fyne to the Kirk". Greyfriars Kirk Session Records, 11th December 1710.

<sup>2</sup> In 1690 the Glasgow Town Council ruled that whoever served drink after 10 p.m. or during church hours should be fined sixty shillings Scots "whereof one halfe to the informer and the other to be applied to the use of the poor". Renwick, *Extracts From the Records of the Burgh of Glasgow*, IV, 442.

<sup>3</sup> *The King's Pious Proclamations for Encouragement of Piety and Vertue*, 47.

<sup>4</sup> *Acts of the General Assembly*, 1705, Act. 9, Sess. 12.

magistrates upon Tuesday next, to concert proper measures that may most effectually suppress immoralities, particularly the profanation of the Lord's-day."<sup>1</sup>

After consultation, the local magistrates promised to patrol the streets with more zeal and care, and to punish Sabbath-breakers with great severity. However, in 1728, thirty-five years after the *Act Against Profaneness* of 1695, the General Session summed up the results of their long and tedious efforts.

"It is hereby humbly represented to the General Session of Edinburgh, that the customary way of going through the streets on the Lord's-day by the several Sessions, in their journey, proves of little use, and does not answer the end intended; for they can only be in one part of the town at one time, and cannot know of the irregularities that may be in other parts of it."<sup>2</sup>

So it was that the inhabitants of "Auld Reekie" evaded attempts to make them conform to unpopular civil statutes. It was one thing to pass laws and yet another to enforce them.

Elsewhere it was evident that magistrates, though capable of pious platitudes about reverence and respect for the Lord's Day, were not very faithful in enforcing Sabbath regulations. In 1698 Elgin magistrates promised to stop the traditional Sunday fruit and vegetable market. In 1733 they again "assured the Session of their assistance" in stopping the market. Three years later, once again informed that the Sabbath was "profained . . . by buying of fruit in gardens", they solemnly promised the Kirk Session that the practice would be stopped. Yet as late as 1762 the market was still in operation, Sabbath legislation notwithstanding.<sup>3</sup> A fair estimation of the situation can be found in the words of William Wishart, a contemporary Edinburgh clergyman. "It is complained of, and not without ground", he insisted, "that though we have excellent laws against Vice and Prophaneness, yea so excellent that it is a question if any Nation in the World hath better; Yet these laws are not put to due and vigorous Execution by inferior Magistrates, at least by many of them."<sup>4</sup>

<sup>1</sup> Minutes of the General Session of Edinburgh, 9th June 1724. Other examples can be found in *Report from Select Committee on the Observance of the Sabbath Day* (London, 1832), 305.

<sup>2</sup> Minutes of the General Session of Edinburgh, 3rd September 1728.

<sup>3</sup> Cramond, *Extracts from the Records of the Kirk Session of Elgin*, 316, 328, 332 and 339.

<sup>4</sup> William Wishart, *A Discourse of Suppressing Vice and Reforming the Vicious* (Edinburgh, 1702), 5.



## ECCLESIASTICAL ENFORCEMENT

Turning now to ecclesiastical law, we can best begin with the General Assembly and work down to Kirk Sessions. Between 1690 and 1726 the General Assembly passed no less than fifteen Acts containing specific recommendations about the enforcement of Sabbath observance. In most instances the Acts enumerated prevalent forms of Sabbath desecration and exhorted lesser judicatories to be more diligent in punishing offenders. At other times they reprimanded civil authorities for failing to put existing statutes into execution.<sup>1</sup> Occasionally the Assembly referred to the Commission specific cases of Sabbath-breaking sent by lower church courts.<sup>2</sup> Outside of these items little else of importance was done to enforce Sunday observance.

Synods and Presbyteries acted as liaisons between Kirk Sessions and the General Assembly. Their responsibilities were: (1) to see that Kirk Sessions faithfully executed Sabbath laws, (2) to represent Kirk Sessions before the Lords Commissioners of Justiciary, and (3) to keep the General Assembly informed about the status of Sabbath observance within their bounds and to suggest remedial legislation.<sup>3</sup> In addition to these general principles, Synods and Presbyteries, but more particularly the latter, ruled on cases referred to them by Kirk Sessions. Usually these cases concerned prominent people, obstinate offenders, or situations too complex for sessional understanding. Thus in 1698, when all other attempts had failed, the Synod of Fife sought "to interpose their authoritie" to stop the working of salt pans on Sunday within its bounds.<sup>4</sup> In 1717 the Presbytery of Edinburgh censured two ministers for Sunday travelling and in 1715 the Synod of Angus and Mearns deposed a minister for frequenting change houses and causing his servants to work on the Sabbath.<sup>5</sup> An unrepentent Sabbath-breaker at Bendochy in 1721 was referred "to the reverend presbytery of Miggle to determine therein, in such a way as may either make the said W. R. obsequious to discipline, or bring him under ecclesiastical censure."<sup>6</sup> The Forfar Kirk Session was confounded by two men who swore on oath that while

<sup>1</sup> Acts were passed in 1690, 1694, 1699, 1704, 1705, 1706, 1708, 1714, and 1715. Other actions simply re-affirmed previous laws. For an abstract of these laws see Brackenridge, "Sunday Observance in Scotland 1689-1900", 253-5.

<sup>2</sup> cf. Records of the Commission of the General Assembly, 11th July 1705, and 29th August 1705.

<sup>3</sup> *Acts of the General Assembly*, 1697, pp. 15-16; 1699, pp. 12-13; 1701, p. 29; and 1708, pp. 20-1.

<sup>4</sup> *Selections from the Minutes of the Presbyteries of St Andrews and Cupar 1641-1698* (Edinburgh, 1837), 100.

<sup>5</sup> Minutes of the Presbytery of Edinburgh, 20th August 1717; Minutes of the Synod of Angus and Mearns, 22nd October 1715.

<sup>6</sup> Bendochy Kirk Session Records, 12th April 1721.

they had indulged in three glasses of ale between sermons on Sunday, they had finished the last glass "before the first psalm was ended." Deeming the matter "a little intricate", the Session remitted it to presbytery.<sup>1</sup> In 1794 the General Assembly ruled that Kirk Sessions should refer all cases to presbyteries before taking any action whatsoever.<sup>2</sup>

The real burden of enforcing Sabbath observance during this period, however, fell on the shoulders of local elders. This was done with different degrees of leniency and severity, depending on how much the elders chose to exercise the elastic and judicious principle of "sessional discretion". In general, Kirk Sessions seem to have followed the procedure set forth in the *Form of Process*. Although this did not become Church law until 1707, it simply codified what was already common practice. In Chapter III, "Concerning Swearers, Profaners of the Lord's Day, Drunkards, and other Scandals of that Nature", the following procedure was recommended.

1. Ordinarily, guilty persons for the first fault should be spoken to in private by the minister or an elder and admonished. On promise from sense of guilt to amend, the process should cease.
2. If persons relapsed a second time, they were to be brought before the Session and rebuked. A promise to amend once again ended the matter.
3. If, however, there was no response, the Session should proceed to lesser excommunication (denial of the sacraments) until signs of remorse or repentance were evident.
4. In cases of prolonged obstinacy higher excommunication could be employed, but only if there appeared to be no chance whatsoever of reclaiming offenders.<sup>3</sup>

With minor variations Kirk Sessions adhered to these suggested steps. Normally, first offenders were dealt with kindly and their names rarely grace the pages of Kirk Session records. At Tynninghame in 1700, when an elder reported that he saw some people bringing in water on Sunday, he was appointed "to give ym a rabook in name of the session with certification, that if they be found doing the lyke againe, a severer course will be taken with them."<sup>4</sup> In 1705 the Barony Kirk Session of Glasgow summoned a man to appear for excessive drinking on Sunday, noting that "he had previously been warned about such behaviour".<sup>5</sup> The Elgin Kirk Session privately warned five

<sup>1</sup> Alan Reid, *The Royal Burgh of Forfar* (Paisley, 1902), 140.

<sup>2</sup> *Acts of the General Assembly, 1794* (Abridgement), Sess. Ult.

<sup>3</sup> *Acts of the General Assembly, 1707*, pp. 22-3. See also Ivo Clark, *A History Of Church Discipline* (Aberdeen, 1929), 138-62.

<sup>4</sup> Tynninghame Kirk Session Records, 6th October 1700.

<sup>5</sup> Barony (Glasgow) Kirk Session Records, 29th July 1705.



men who had fished with spears on the previous Lord's Day never to do it again.<sup>1</sup> Much of the work of Kirk Sessions was of this nature. Often private warnings were repeated several times before any official action was taken.

When private admonitions proved ineffective, Sessions proceeded to give offenders a sessional or public rebuke depending on individual circumstances. At Eastwood in 1692 the moderator rebuked a man guilty of bringing in peats on Sunday "with certification if he fell to the like again he should be publicly censured".<sup>2</sup> In 1704 the Auchtermuchty Kirk Session gave two women a sessional rebuke for cutting kail during the time of public worship and warned them that "if they were found guilty of such practice again this censure should be made more public".<sup>3</sup> A man who openly drove cattle on Sunday and sought to avoid the discipline of the Dailly (Ayrshire) Kirk Session not only received a public rebuke, but was also required to pay twenty pounds Scots "just in case he should be found guilty thereafter".<sup>4</sup> In most instances, however, sessional discipline did not go beyond a private rebuke before the elders or a public rebuke before the congregation.

In rare cases, usually when a moral issue was connected with a particular instance of Sabbath-breaking, Sessions applied the pressure of lesser excommunication. At the Barony Church in Glasgow a young couple guilty of "immodest and unchast carriage together in the Barony Ch. in time of sermon", were publicly rebuked and given lesser-excommunication until they showed some signs of genuine repentance.<sup>5</sup> Only one case of higher excommunication has been found although there may have been others. In 1702 the Synod of Galloway, upholding a sessional ruling, passed the sentence of "greater excommunication on Archibald Blair of Broomhill for being guilty of habituall drunkenness . . . breach of the Sabbath day, contemning the ordinances, fighting with other men, and disobedience to his parents."<sup>6</sup> From a modern perspective one is amazed at the patience of ecclesiastical authorities in dealing with Blair, and at the light sentence handed down. They appear to have done everything in their power to keep him within the fold of the Kirk.

Such evidence, open in abundance to any interested researcher, places it beyond question that post-Revolution Kirk Sessions were normally concerned to see that Sunday was observed quietly and religiously. To say otherwise is

<sup>1</sup> Cramond, *Extracts from the Records of the Kirk Session of Elgin*, 315.

<sup>2</sup> Eastwood Kirk Session Records, 30th August 1692.

<sup>3</sup> Auchtermuchty Kirk Session Records, 9th April 1704.

<sup>4</sup> Dailly Kirk Session Records, 28th November 1704.

<sup>5</sup> Barony (Glasgow) Kirk Session Records, 5th July 1707.

<sup>6</sup> Records of the Synod of Galloway 21st October 1702.

to flaunt obvious facts. Nevertheless, Henry Grey Graham's harsh condemnation of sessional enforcement of Sabbath observance hardly does justice to the truth. Before condemning elders as tyrannical Sabbatarian despots, consideration should be given to some mitigating factors.

For one thing, elders frequently found their authority questioned when they attempted to force "Sabbath sanctification" on local residents. Contrary to popular opinion, parishioners did not always meekly submit to sessional discipline. When the Glasgow Town Council passed an *Act Against Prophaneness* in 1701, it was necessary to append this stricture: "The saids magistrate and counsell doe strictly prohibite and discharge all abuseing of or doing or offering of any violence or indignitie to ministers, elders, deacons, or any other of the persons who shall be searching in houses or otherwise . . ." <sup>1</sup> In 1703 a South Leith elder approached a gentleman on the street during church hours and "admonished him to goe to ye Church and sanctifie the Saboth". The gentleman refused "obstinately by several huffie expressions". When the elder persisted in his duty, the man drew his sword and threatened to run his opponent through. The Town Guard was soon called, but the offender "retired to ye Links before the gaird came, where was a great many gavening whom it was impossible for us to command so wee did forbear pursuing him any more." <sup>2</sup> A Forfar man, found guilty by the Kirk Session in 1724 for "gathering in his lintseed bolls with his coat off and a belt about him during divine service", refused to do penance before the congregation, "and would not even acknowledge a breach of the Sabbath, thinking the less of himself for even waiting on the Session." At last report he "continued obstinate". <sup>3</sup> In other parishes there were many people who refused to let elders determine how they should spend their Sundays—ecclesiastical or civil discipline notwithstanding.

Furthermore, elders were often reluctant to become the Sabbath consciences of their parishioners. When asked to give names of Sabbath-breakers in their districts, elders frequently replied that "they had no delations". In 1718 the congregation at Maybole in Ayrshire complained to the Presbytery of Ayr that local elders ignored "immoralities on the streets and in taverns at untimely hours, in drinking, swearing and the lyke whether on the Lord's Day or on other days . . ." <sup>4</sup> At Kilmarnock in 1699 it was necessary to fine any elder absent from his attendance at the church door

<sup>1</sup> Renwick, *Extracts from the Records of the Burgh of Glasgow 1690-1718*, p. 337.

<sup>2</sup> South Leith Kirk Session Records, 22nd April 1703.

<sup>3</sup> Reid, *The Royal Burgh of Forfar*, 141.

<sup>4</sup> Andrew Edgar, *Old Church Life in Scotland* (1st Series, London and Paisley, 1885), 211-12.

4s. Scots, an indication that this responsibility was being ignored.<sup>1</sup> It is also quite evident that many elders were not enthusiastic searchers of the town on Sunday. Auchterhouse elders, to cite only one example, were ordered to patrol the streets in 1707, 1708, 1712 (twice), 1717, 1721 and 1722. Each time the practice had been discontinued and needed renewing.<sup>2</sup> Similar situations existed in countless other parishes.

It must also be remembered that Kirk Sessions were not incapable of mercy and charity when dealing with Sabbath-breakers. They frequently made generous provision for works of necessity and kindness. In 1699 the Elgin Kirk Session excused a woman for carrying water and doing household chores on Sunday because she was caring for a sick sister.<sup>3</sup> The fairminded Kilmalcolm (Renfrewshire) Kirk Session dismissed a farmer and his wife charged with carrying straw on the Lord's Day, "considering the unblameable character of them both".<sup>4</sup> Penninghame elders also dealt fairly with Thomas McGarva who acknowledged that "he did let blood out of a sheep on the Sabbath lately". McGarva contended that "it was in point of necessity, the sheep being almost dead and the flesh had been lost if he had left that undone until Monday." The Session ruled that "it was not sin but duty for him to do that if he did no more and if the sheep was in that condition . . . unlesse something else can be instructed which is left to further inquiry."<sup>5</sup> It would appear, therefore, that elders recognized their own human frailties and weaknesses. They were willing, in some measure at least, to take into consideration individual personalities and extenuating circumstances.

The attitude of Kirk Sessions to Sabbath observance during the "Golden Age" while rightly called strict can hardly be termed tyrannical or despotic. Elders were human beings, men of their own time who made mistakes or were carried away by religious zeal. G. D. Henderson has succinctly characterized them in the following terms.

"In reading Session records at all periods one is frequently struck by the evidence of common sense, patience, affectionate interest, and shrewd understanding on the part of elders. They knew the people intimately and were themselves intimately known. They recognized the hardened sinners; and though they had no training in psychology and no legal education and often forgot the purpose of discipline,

<sup>1</sup> Edgar, *Old Church Life in Scotland*, 2nd Series, 18.

<sup>2</sup> Mason Inglis, *An Angus Parish in the Eighteenth Century* (Dundee, 1904), 88-108.  
At Elgin the injunction to search was given in 1700, 1701, 1707, 1712, and 1713.  
At Tynninghame in 1695, 1710, 1720, and 1730.

<sup>3</sup> Cramond, *Extracts from the Records of the Kirk Session of Elgin*, 320.

<sup>4</sup> G. D. Henderson, *The Scottish Ruling Elder* (London, 1935), 121.

<sup>5</sup> Penninghame Kirk Session Records, 14th May 1699.



and were crude in their methods, charges were fairly tried without haste, and with a fair mingling of justice and mercy.<sup>1</sup>

It is necessary at this point to add a further word about church attendance. In *The Social Life of Scotland in the Eighteenth Century*, Graham insisted that "to attend church was no question of choice; it was a matter of compulsion".<sup>2</sup> The correctness of this assertion must be questioned. Contemporary records indicate that church attendance was far from universal. "Dyshauters of the ordinances" constituted a goodly number of people—far more than is commonly imagined. Either that or Kirk Sessions were making "much ado about nothing".<sup>3</sup> Some insight into church-going habits of the people can be gained from a description of Ettrick Parish given by Thomas Boston in 1710. Far better than impersonal Kirk Session records it illustrates pastoral concern for a flock which was not very regular in church attendance.

"Our parish is not great, but our congregation is less by reason of the principles, passions, and prejudices of not a few. But yet smallest of all is the company of ordinary hearers; when those are taken off that come once in twenty days, a month, or six weeks; who are taken up with their beasts all the summer in the fields, and sleep at home with them all the winter; yet some whose faces I seldom if ever can discern but when I surprise them at their houses, though I tell publicly in the congregation that I am to be that way. Weep over the slighting of the preaching of the word among us. Some that have not far to come will loiter away Lord's days at home; though if they would come little further than half-way from their own houses, they might possibly sometimes hear the sound of my voice."<sup>4</sup>

Modern pastors, plagued with the problem of sporadic attendance, can find some solace in Boston's lament. Evidently the "old worthies" of the Kirk had to deal with people who were just as lukewarm about religious concerns as many are today. Even threats of civil or ecclesiastical punishment did not stir them. One wonders if the attitude expressed by Andrew Reid

<sup>1</sup> Henderson, *The Scottish Ruling Elder*, 107. A more recent study of Church discipline in early eighteenth-century Scotland supports Henderson's generalization. See Ralph Graham, "Ecclesiastical Discipline in the Church of Scotland" (Unpublished Ph. D. Thesis, University of Glasgow, 1964), esp. 114-23.

<sup>2</sup> Graham, *The Social Life of Scotland in the Eighteenth Century*, 315.

<sup>3</sup> Every parish had its share of "habitually absentees". See Auchterhouse Kirk Session Records, 3rd March 1717; Ratho Kirk Session Records, 1694-96; and Tynninghame Kirk Session Records, 7th February and 2nd May 1700, and 21st October 1705 for typical examples.

<sup>4</sup> *Memoirs of the Life, Time, and Writings of the Reverend Thomas Boston* (Edinburgh, 1776), Appendix, 1.

of Auchterarder, an habitual absentee, was not that of countless others. In 1704 an elder admonished Andrew for his continued absence from church. Andrew stoutly replied that "he would stay at home or come to church when he pleased, and that if there had been another with him he would have caused a single member of the Session to return and not so as he came." The elder hurriedly made his exit—unable or unwilling to continue the discussion.<sup>1</sup>

While the overall effectiveness of Sunday observance enforcement between 1689 and 1733 must remain a moot point, it is probably fair to say that it was not as strict as some contemporaries desired nor as harsh as some later generations imagined. In any given area it varied according to the theological disposition of ministers and elders and the co-operativeness of civil authorities. Interpreted through other than Victorian eyes, however, the records of the time indicate as much the failure of Sabbatarians to force their views on others as they do their successes. In all fairness, both aspects must be kept in mind if anything resembling a balanced evaluation of the situation is ever to be obtained.

<sup>1</sup> Auchterarder Kirk Session Records, 3rd September 1704.

